

(i) Individuals whose actual hours worked during the review period exceeded an average of 54 hours per week in any shift cycle while the individuals' work hours are subject to the requirements of § 26.205(d)(3) or in any averaging period of up to 6 weeks, using the same averaging period durations that the licensee uses to control the individuals' work hours, while the individuals' work hours are subject to the requirements of § 26.205(d)(7);

(ii) Individuals who were granted more than one waiver during the review period; and

(iii) Individuals who were assessed for fatigue under § 26.211 during the review period.

(2) Review individuals' hours worked and the waivers under which work was performed to evaluate staffing adequacy for all jobs subject to the work hour controls of this section;

(3) Document the methods used to conduct the review and the results of the review; and

(4) Record, trend, and correct, under the licensee's corrective action program, any problems identified in maintaining control of work hours consistent with the specific requirements and performance objectives of this part.

[73 FR 17176, Mar. 31, 2008, as amended at 76 FR 43548, July 21, 2011]

#### § 26.207 Waivers and exceptions.

(a) *Waivers.* Licensees may grant a waiver of one or more of the work hour controls in § 26.205(d)(1) through (d)(5)(i) and (d)(7), as follows:

(1) To grant a waiver, the licensee shall meet both of the following requirements:

(i) An operations shift manager determines that the waiver is necessary to mitigate or prevent a condition adverse to safety, or a security shift manager determines that the waiver is necessary to maintain site security, or a site senior-level manager with requisite signature authority makes either determination; and

(ii) A supervisor assesses the individual face to face and determines that there is reasonable assurance that the individual will be able to safely and competently perform his or her duties during the additional work period for

which the waiver will be granted. The supervisor performing the assessment shall be trained as required by §§ 26.29 and 26.203(c) and shall be qualified to direct the work to be performed by the individual. If there is no supervisor on site who is qualified to direct the work, the assessment may be performed by a supervisor who is qualified to provide oversight of the work to be performed by the individual. At a minimum, the assessment must address the potential for acute and cumulative fatigue considering the individual's work history for at least the past 14 days, the potential for circadian degradations in alertness and performance considering the time of day for which the waiver will be granted, the potential for fatigue-related degradations in alertness and performance to affect risk-significant functions, and whether any controls and conditions must be established under which the individual will be permitted to perform work.

(2) To the extent practicable, licensees shall rely on the granting of waivers only to address circumstances that could not have been reasonably controlled;

(3) Licensees shall ensure that the timing of the face-to-face supervisory assessment that is required by paragraph (a)(1)(ii) of this section supports a valid assessment of the potential for worker fatigue during the time the individual will be performing work under the waiver. Licensees may not perform the face-to-face assessment more than 4 hours before the individual begins performing any work under the waiver; and

(4) Licensees shall document the bases for individual waivers. The documented basis for a waiver must include a description of the circumstances that necessitate the waiver, a statement of the scope of work and time period for which the waiver is approved, and the bases for the determinations required in paragraphs (a)(1)(i) and (ii) of this section.

(b) *Force-on-force tactical exercises.* For the purposes of compliance with the minimum days off requirements of § 26.205(d)(3) or the maximum average work hours requirements of § 26.205(d)(7), licensees may exclude shifts worked by security personnel

during the actual conduct of NRC-evaluated force-on-force tactical exercises when calculating the individual's number of days off or hours worked, as applicable.

(c) *Common defense and security.* When informed in writing by the NRC that the requirements of § 26.205, or any subset thereof, are waived for security personnel to ensure the common defense and security, licensees need not meet the specified requirements of § 26.205 for the duration of the period defined by the NRC.

(d) *Plant emergencies.* Licensees need not meet the requirements of § 26.205(c) and (d) during declared emergencies, as defined in the licensee's emergency plan.

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**§ 26.209 Self-declarations.**

(a) If an individual is performing, or being assessed for, work under a waiver of one or more of the requirements contained in § 26.205(d)(1) through (d)(5)(i) and (d)(7) and declares that, due to fatigue, he or she is unable to safely and competently perform his or her duties, the licensee shall immediately stop the individual from performing any duties listed in § 26.4(a), except if the individual is required to continue performing those duties under other requirements of this chapter. If the subject individual must continue performing the duties listed in § 26.4(a) until relieved, the licensee shall immediately take action to relieve the individual.

(b) Following a self-declaration, as described in paragraph (a) of this section, the licensee—

(1) May reassign the individual to duties other than those listed in § 26.4(a), but only if the results of a fatigue assessment, conducted under the requirements of § 26.211, indicate that the individual is fit to safely and competently perform those other duties; and

(2) Shall permit or require the individual to take a break of at least 10 hours before the individual returns to performing any duties listed in § 26.4(a).

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**§ 26.211 Fatigue assessments.**

(a) Licensees shall ensure that fatigue assessments are conducted under the following conditions:

(1) For cause. In addition to any other test or determination of fitness that may be required under §§ 26.31(c) and 26.77, a fatigue assessment must be conducted in response to an observed condition of impaired individual alertness creating a reasonable suspicion that an individual is not fit to safely and competently perform his or her duties, except if the condition is observed during an individual's break period. If the observed condition is impaired alertness with no other behaviors or physical conditions creating a reasonable suspicion of possible substance abuse, then the licensee need only conduct a fatigue assessment. If the licensee has reason to believe that the observed condition is not due to fatigue, the licensee need not conduct a fatigue assessment;

(2) Self-declaration. A fatigue assessment must be conducted in response to an individual's self-declaration to his or her supervisor that he or she is not fit to safely and competently perform his or her duties for any part of a working tour because of fatigue, except if, following the self-declaration, the licensee permits or requires the individual to take a rest break of at least 10 hours before the individual returns to duty;

(3) Post-event. A fatigue assessment must be conducted in response to events requiring post-event drug and alcohol testing as specified in § 26.31(c). Licensees may not delay necessary medical treatment in order to conduct a fatigue assessment; and

(4) Followup. If a fatigue assessment was conducted for cause or in response to a self-declaration, and the licensee returns the individual to duty following a break of less than 10 hours in duration, the licensee shall reassess the individual for fatigue as well as the need to implement controls and conditions before permitting the individual to resume performing any duties.

(b) Only supervisors and FFD program personnel who are trained under §§ 26.29 and 26.203(c) may conduct a fatigue assessment. The fatigue assessment must be conducted face to face